HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SHRI JUSTICE G.V. SEETHAPATHY

WRIT PETITION No.4280 of 2006

Between:

S.S. Krishnaji, S/o. Late Venkat Rao Pantulu

Aged about 82 years, Occ: Senior Journalist

R/o. R.R. Road, Kakinada.

… Petitioner

AND

Govt., of A.P., rep., by its Chief Secretary (Revenue),

Secretariat, Hyderabad & 3 others.

… Respondents

Counsel for the petitioner : Mr. C.V.Nagarjuna Reddy.

Counsel for respondent Nos.1 to 3 : Government Pleader for Revenue

Counsel for respondent No.4 : Mr. P. Ganga Rami Reddy

Dated the 09th June, 2006

: ORDER :

PER G.S. SINGHVI, CJ.

In this petition filed as a piece of Public Interest Litigation, the petitioner has prayed for issue of a direction to respondent Nos. 1 to 3 not to acquire land in such a manner as to jeopardize the proposed railway line between Kakinada and Pithapuram.

On 10-4-2006, the case was adjourned to enable the petitioner to place some tangible material in support of his assertion that the proposed land acquisition is likely to jeopardize the railway line which is to be constructed between Kakinada and Pithapuram.

Sri C.V. Nagarjuna Reddy, learned counsel for the petitioner requests for an adjournment by saying that his client would like to file additional affidavit.

Ordinarily, we would have accepted the request of the learned counsel and adjourned the case, but having perused the counter affidavits, we do not consider it necessary to do so. In the counter affidavits filed by Revenue Divisional Officer, Kakinada, East Godavari District (respondent No.3) and the Deputy Chief Engineer (Construction, South Central Railway), Vijayawada, it has been categorically averred that the impending acquisition is not going to affect the proposed railway line. In paragraphs 3 to 7 of the affidavit of Sri K. Nageswara Rao, Revenue Divisional Officer, Kakinada, East Godavari District, the following averments have been made.

> "3. In reply to the averments made in Para 2 of the Petitioners' affidavit, it is submitted that this W.P. is filed by the petitioner in public interest aggrieved by the action of the 2nd respondent in issuing notification dated 05.01.2006 U/s 4(1) of L.A. Act which will make the whole proposal of laying Railway line between Kakinada and Pithapuram abortive. At the outset it is submitted that there is no public interest involved. The petitioner has no locus standi to file a public interest litigation. Filing of PILs is on the increase and is being resorted as a routine matter without examining the scope and need in spite of courts' directives.
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> 4. In reply to the averments made in para 3 of the Petitioners' affidavit, it is submitted that the good services of the petitioner are noted but they do not qualify or justify filing of the present W.P. on L.A for SEZ.
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> 5 In reply to the averments made in Para 4 of the Petitioners' affidavit, it is submitted that the need for a railway line between Kakinada and Pithapuram 21.5 KMs and if it marginalized the Kakinada port would become a major port. The efforts of the petitioner no doubt, deserves appreciation. These would not however merit filing of W.P. against acquisition of lands for SEZ. The petitioner is trying to give an impression that he is solely responsible for the railway line between Kakinada and Pithapuram. There are men belonging to the District in position in the parliament and Union Cabinet who can deal with the issue. If the work is sanctioned and the Union Government issues sanction orders the State Government will acquire the required land. The petitioner has no role to play in the instance case.

6. In reply to the averments made in Para 5 to 7of the Petitioners' affidavit, it is submitted that the stages of railway the proposals and nationalization of railway. They are not relevant to the issue on hand.

7. In reply to the averments made in Para 8 of the Petitioners' affidavit, it is submitted that the L.A. for SEZ and acquisition of a vast extent of Ac.10000 in Kakinada, U.Kothapalli and Thondangi Mandals. He apprehends that if such a huge extent is acquired between Kakinada and Pithapuram there would be no land for laying railway track. The need LA for SEZ and LA for Railway Track may be studied for assessing their relative merits. The extent proposed for LA and SEZ is Ac.4408.50 in Kakinada Division only in between U. Kothapalli Mandal of Kakinada Division and Thondangi Mandal of Peddapuram Division. Therefore, the SEZ acquisition is not lying in between Kakinada and Pithapuram Mandals. The object of acquisition and stage of LA under SEZ is furnished below. The total extent of the project and connected details are as follows:-

Total extent of the project in Kakinada Division Ac.4408.50 cts.

The entire extent of land lies in U. Kothapalli Mandal of Kakinada Division.

(i) R.Peta Ac.1966-28 cts.

(ii) Mulapeta 267-71

(iii) Komaragiri 218-94

(iv) Ponnada 1955-57

Total Ac.4408.50 cts.

The Collector, East Godavari issued 19 notifications U/s.4(1) of the Land Acquisition Act, 1894 as under:

S.No.	DN dated	ExtentAc. Cts
1	112/05, dated 29.12.2005	267.71
2	1/2006, dated 1.1.2006	246.26
3	2/2006, dated 1.1.2006	239.65
4	3/2006, dated 1.1.2006	249.80
5	4/2006, dated 1.1.2006	249.79
6	5/2006, dated 1.1.2006	234.45
7	6/2006, dated 1.1.2006	245.12
8	7/2006, dated 1.1.2006	246.15
9	8/2006, dated 1.1.2006	244.35
10	9/2006, dated 3.1.2006	227.10
11	10/2006, dated 3.1.2006	219.08
12	11/2006, dated 3.1.2006	238.13
13	12/2006, dated 3.1.2006	234.58
14	13/2006, dated 3.1.2006	224.42
15	14/2006, dated 3.1.2006	226.13
16	15/2006, dated 3.1.2006	227.65
17	16/2006, dated 3.1.2006	199.78
18	17/2006, dated 3.1.2006	169.41
19	18/2006, dated 3.1.2006	218.94
	TOTAL EXTENT	4408.5

The land owners filed two W.Ps opposing the acquisition of lands. The W.P.No.827/2006 filed by Sri K. Kanakaraju and 14 others of Mulapeta and Ponnada village and was disposed by the High Court, Andhra Pradesh, Hyderabad. The other W.P.No.1007/2006 is pending. Counter affidavit was filed on 30.01.2006. 5(A) enquiry was taken up on 20.02.2006 and 21.02.2006 in 8 notifications among the above 19 notifications, which are free from writ petitions. Sec. 5(A) notices were issued to land owners. All petitions were scrutinized and further action is being taken.

(iv) Kakinada-Pithapuram Railway Track:-

There is no project report available. This is a long pending demand of the public of Kakinada Town. As per the affidavit herein its length is 21.5 KM. A small extent of land is necessary to be acquired for which there will be no problem even if the proposed Railway line passes through the alignment of SEZ."

In the affidavit of Sri M.V.S. Rama Raju, Deputy Chief Engineer (Construction, South Central Railway), the following averments have been made.

"I am working as Dy. Chief Engineer, Construction, South Central Railway, Vijayawada. I am well acquainted with facts of the case. I am filing this counter affidavit on behalf of 4th respondent, as I am authorized to do so. I have read the affidavit and Annexures filed by the petitioner in support of the above writ petition and I have understood the contents therein and I deny the allegations contained therein except those that are specifically admitted herein.

At the outset, it is submitted that fourth respondent is not a necessary party to this writ petition, as the petitioner has not sought any direction against this respondent. This respondent has also no role in the alleged proposed action of the State Government. Hence, the writ petition is liable to be dismissed against the fourth respondent.

I submit that initially, a Reconnaissance Engineering-cum-Traffic Survey was conducted by the railway for laying a new Broad Gauge Railway line from Kakinada Port to Pithapuram and a detailed report was submitted to railway board during the year 1998. The work was included in the pink book vide item No.9 of 2000-2001 and the proposed expenditure will be charged to 'Capital'. I submit that final location survey was conducted during the year 2004 for construction of new Broad Gange Railway line from Kakinada Port to Pithapuram. As per the final location survey the proposed railway line from Kakinada Port to Pithapuram is passing through the villages viz., Andhra Pradesh Port land area Kakinada Port, Vakalapudi, Tammavaram, Nemam, Gorsa, Komirigiri and Pithapuram villages in East Godavari District and the length of the proposed railway line is 21.5 km.

I submit that after completion of final location survey, a detailed estimate was prepared at a cost of Rs.66.10 crores and submitted to Railway Board during 2004. Further, as per the recent instructions of Railway Board, the updated consolidated estimate for the construction of new Broad Gauge Railway line from Kakinada Port to Pithapuram was prepared at a cost of Rs. 85.26 crores duly taking into consideration the prevailing land cost and other overheads and

sent to Railway Board on 03.04.2006 for sanction of Railway Board. I submit that the estimate is not yet sanctioned by Railway Board. I submit that from time to time, token grants were made by the Railway Board for the above work. Even during the year 2006-2007, an amount of

Rs.1.00 lakh only is allocated by Railway Board for Kakinada Port to Pithapuram Broad Gauge line work under 'Capital'. I submit that the updated consolidated estimate for sanction of the Railway Board is under process. As soon as the estimate is sanctioned by Railway Board and release the grant, the work of construction of new Broad Gauge Railway line from Kakinada Port to Pithapuram will be commenced duly sending a requisition to Government of Andhra Pradesh for acquiring of land if any."

In view of the stand taken by the concerned respondents that the impending acquisition will not affect the proposed railway line between Kakinada and Pithapuram, no further direction is required to be given in the matter and the writ petition is liable to be disposed of as infructuous. Ordered accordingly.

G.S. SINGHVI, CJ

9th June, 2006

G.V. SEETHAPATHY, J

ES/GRR